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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE, Plaintiff and Respondent, v. GREGORY O. HUDSON, Defendant and Appellant.	B207132 (Los Angeles County Super. Ct. No. VA085681)

APPEAL from a judgment of the Superior Court of Los Angeles County. Roger Ito, Judge. Affirmed.

Laurie Buchan Serafino, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Paul M. Roadarmel, Jr., and Eric J. Kohm, Deputy Attorneys General, for Plaintiff and Respondent.

Appellant Gregory Hudson pled guilty to one count of resisting an executive officer in violation of Penal Code section 69 and was sentenced to the mid-term of two years in state prison. As part of the plea agreement, the trial court dismissed the charges that appellant possessed cocaine and marijuana for sale, in violation of Health and Safety Code sections 11351.5 and 11359, respectively.

Appellant appeals from the judgment of conviction, contending that the trial court erred in denying his motion to suppress evidence.[1] We affirm the judgment of conviction.

Facts[2]

On October 21, 2004, about 8:30 a.m., Los Angeles County Sheriff's Deputies Javier Valencia and Francis Espeleta were driving on Beach Street in their marked patrol car. The deputies observed a car stopped in the middle of the street. Several cars had to drive into the oncoming traffic lane to get around the car. The deputies pulled up behind the car, intending to issue a citation to appellant, who was in the driver's seat of the car.

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[1] The evidence involved in the motion to suppress related only to the narcotics charges, which were dismissed as part of appellant's plea agreement. We nevertheless consider appellant's claim of error, since appellant entered into the plea agreement in the belief that he was facing three charges and enhancements which could result in a total term of 16 years in state prison if he were convicted at trial. In such a position, a guaranteed two-year prison term clearly was a desirable outcome to appellant. If we were to reverse the trial court's ruling, appellant would have the option of withdrawing his guilty plea. The narcotics charges would be reinstated, but the People would certainly have to dismiss them again, for lack of evidence. Thus, appellant would be facing only the section Penal Code section 69 charge. That offense is a wobbler, with a maximum term of imprisonment of three years. Appellant would also face two one-year enhancement terms for prior convictions within the meaning of Penal Code section 667.5. Thus, appellant might be able to negotiate a more favorable sentence with the People, or might choose to exercise his right to a jury trial, in the hopes of an acquittal or a more favorable sentence from the court.

[2] The facts are taken from testimony at the hearing on appellant's suppression motion.

Appellant drove the car into the driveway of a house. The deputies pulled their car in behind him. Appellant got out of the car and locked it.

Deputy Valencia approached appellant on foot. A juvenile male came out of the house. Appellant handed something to him and told him to take it inside. Deputy Valencia asked appellant to come over to the patrol car. Appellant ran away from the deputies. Deputy Valencia followed. Appellant's shorts fell down around his knees and he fell to the ground. Deputy Valencia attempted to restrain appellant, but appellant struggled. The deputy told appellant that he was under arrest and should place his hands behind his back. Appellant continued to struggle.

Deputy Espeleta attempted to assist Deputy Valencia, but the juvenile jumped on Deputy Espeleta. Appellant was able to stand up. He pushed Deputy Valencia, who fell backwards onto the ground. Appellant fled and went inside the house. Deputy Valencia helped Deputy Espeleta detain the juvenile, who turned out to be appellant's nephew. The keys to appellant's car were found on the juvenile.

During these events, a woman came out from the house and other people in the neighborhood came out into the street. Their presence caused a commotion. The deputies arrested the woman, who turned out to be appellant's mother. They also called for backup.

When backup assistance arrived, Deputy Valencia went into the house to look for appellant. He was not there.

The deputies decided to tow appellant's car to determine his identity and also the identity of the vehicle's owner. Deputy Valencia believed that he was authorized to tow the car pursuant to Vehicle Code section 22655.5.

Before the car was towed, Deputy Paul conducted an inventory search. He found a wallet containing appellant's identification in the car's center console. He also found cocaine and marijuana in that location. It was the standard policy of the Sheriff's Department to conduct an inventory search of a vehicle before it was impounded.

Discussion

Appellant contends police were not authorized by statute to impound his car and so the trial court erred in denying his motion to suppress evidence uncovered during the inventory search of his car done in preparation for the impoundment. We see no error.

The Fourth Amendment to the United States Constitution guarantees freedom from unreasonable search and seizure. (U.S. Const., 4th Amend.; U.S. Const., 14th Amend.) Where evidence is obtained in violation of this right, the remedy is suppression of that evidence. (*Mapp* v. *Ohio* (1961) 367 U.S. 643, 654.)

The standard of review of a trial court's ruling on a motion to suppress is well established. We defer to the trial court's factual findings, express or implied, where supported by substantial evidence. In determining whether, on the facts so found, the search or seizure was reasonable under the Fourth Amendment, we exercise our independent judgment. (*People* v. *Glaser* (1995) 11 Cal.4th 354, 362.)

Vehicle Code section 22655.5 authorizes the towing of a vehicle under the following circumstances: "(a) When any vehicle is found upon a highway or public or private property and a peace officer has probable cause to believe that the vehicle was used as the means of committing a public offense. [¶] (b) When any vehicle is found upon a highway or public or private property and a peace officer has probable cause to believe that the vehicle is itself evidence which tends to show that a crime has been committed or that the vehicle contains evidence, which cannot readily be removed, which tends to show that a crime has been committed."

Appellant contends that none of the circumstances set forth in Vehicle Code section 22655.5 existed in this case. We will assume for the sake of argument that

appellant is correct.[3] That was not the only basis on which the officers could search appellant's car.[4] As the trial court correctly found, the search was an investigatory one, to find evidence of appellant's identity.

The officers originally contacted appellant to issue a citation for obstructing the street. Under such circumstances, the officers were entitled to require appellant to produce a driver's license and registration for the car. If the driver of a vehicle stopped for a traffic violation does not produce satisfactory identification and registration, officers may conduct a limited warrantless search of the vehicle in areas where such documents might reasonably be found. (*In re Arturo D.* (2002) 27 Cal.4th 60, 67.)

Here, the officers asked appellant to come to the patrol car to obtain information needed for the citation, but appellant instead fled the scene. This is certainly the functional equivalent of refusing to produce personal and vehicle identification information. Officer Paul found a wallet with appellant's driver's license in the vehicle's center console area. The officer found the cocaine and marijuana in that same location. Under the reasoning of *Arturo D.*, the officers were legally justified in searching the car, and the narcotics were discovered in a location where documentation might reasonably be found.

We recognize that the officers characterized the search as an inventory search done as part of the impoundment procedure. We do not view this description as a ruse of any sort which would render the actual search illegitimate. The officers stated that they

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[3] Appellant had locked the car before he fled, and after appellant's flight, a group of hostile people had gathered near the scene, causing the officers to call for back-up. Thus, when the officers first called for a tow truck, they may well have believed that evidence could not readily be removed from the car while it remained at the scene. If so, the situation must have altered while the officers waited for the truck, since Officer Paul was able to remove evidence at the scene.

[4] Respondent contends that the search was permissible because appellant abandoned the car when he fled and so had no expectation of privacy in it. The trial court did not deny appellant's motion on this ground. We need not and do not reach this claim on appeal, as we have found the search proper on another basis.

intended to tow the car as evidence "mainly" to ascertain the identity of the driver and to find out who actually owned the car. Thus, their intent was clear. The need to remove the car is not so clear, as Officer Paul was able to remove the evidence from the car before it was towed. We see nothing in this misjudgment about the need to tow the car which would render the pre-impoundment search unlawful.

Appellant contends that no search for identification or registration was necessary because appellant's nephew and possibly his grandmother had informed the officers of appellant's identity. We do not agree. The two were clearly hostile to police and police were not required to accept their information as accurate or truthful. Appellant also contends no search was justified because the officers could have run the license plates to learn appellant's identity and the car's owner. This option is available to any officer conducting a traffic stop. Nothing in *Arturo D.* suggests that running a license plate is a prerequisite to searching a vehicle.

Appellant also contends that the inventory search was not conducted according to standardized procedures and so was invalid. (See *Florida* v. *Wells* (1990) 495 U.S. 1, 4.) Appellant did not raise this claim in the trial court and so has forfeited it. The claim would fail in any event, as the justification for the search is not a pre-impoundment inventory.

Disposition

The judgment is affirmed.

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ARMSTRONG, J.

We concur:

TURNER, P. J. MOSK, J.